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Attorneys for Defendants

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

BIN LI,)	No. C 07-5564 HRL
)	
Plaintiff,)	
)	
v.)	ANSWER
)	
MICHAEL CHERTOFF, Secretary of the)	
Department of Homeland Security;)	
EMILIO T. GONZALEZ, Director of the)	
U.S. Citizenship and Immigration Services;)	
ROBERT S. MUELLER, Director of)	
Federal Bureau of Investigation,)	
)	
Defendants.)	
_____)	

Defendants hereby submit their answer to Plaintiff's Complaint for Writ in the Nature of Mandamus and Declaratory Judgment.

1. Paragraph One consists of Plaintiff's characterizations of the lawsuit for which no answer is necessary; however, to the extent a response is deemed to be required, the Defendants deny that they have improperly withheld action on Plaintiff's application to his detriment.

PARTIES

2. Defendants admit the allegations in Paragraph Two.
3. Defendants admit the allegations in Paragraph Three.
4. Defendants admit the allegations in Paragraph Four.

ANSWER
 C07-5564 HRL

1 5. Defendants admit the allegations in Paragraph Five.

2 **JURISDICTION**

3 6. Paragraph Six consists of Plaintiff's allegation regarding jurisdiction, to which no
4 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
5 Defendants deny the allegations in this paragraph.

6 **VENUE**

7 7. Paragraph Seven consists of Plaintiff's allegations regarding venue, to which no responsive
8 pleading is required; however, to the extent a responsive pleading is deemed necessary,
9 Defendants deny the allegations in this paragraph.

10 **EXHAUSTION OF REMEDIES**

11 8. Defendants deny the allegations in Paragraph Eight.

12 **CAUSE OF ACTION**

13 9. Defendants admit the allegations in Paragraph Nine.

14 10. Defendants admit the first two sentences in Paragraph Ten; however, Defendants are
15 without sufficient information to admit or deny the remaining allegations.

16 11. Defendants are without sufficient information to admit or deny the allegations in
17 Paragraph Eleven.

18 12. Defendants are without sufficient information to admit or deny the allegations in
19 Paragraph Twelve.

20 13. Paragraph Thirteen consists of Plaintiff's characterizations of the lawsuit for which no
21 answer is necessary; however, to the extent a response is deemed to be required, Defendants deny
22 the allegations in Paragraph Thirteen.

23 14. Defendants deny the allegations in Paragraph Fourteen.

24 15. Defendants deny the allegations in Paragraph Fifteen.

25 16. Defendants are without sufficient information to admit or deny the allegations in
26 Paragraph Sixteen.

27 (a) Defendants admit the allegations in Paragraph Sixteen subsection a.

28 (b) Defendants are without sufficient information to admit or deny the allegations in

Paragraph Sixteen subsection b.

17. Defendants deny the allegations in Paragraph Seventeen.

18. Paragraph Eighteen consists of Plaintiff's characterizations of the lawsuit for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Eighteen.

PRAYER

19. Paragraph Nineteen consists of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny these paragraphs.

FIRST AFFIRMATIVE DEFENSE

The court lacks jurisdiction over the subject matter of this action.

SECOND AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against the Defendants upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

At all times alleged in the complaint, Defendants were acting with good faith, with justification, and pursuant to authority.

FIFTH AFFIRMATIVE DEFENSE

Defendants are processing the applications referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

SIXTH AFFIRMATIVE DEFENSE

Defendants' delay is not unreasonable as a matter of law.

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1 WHEREFORE, Defendants pray for relief as follows:

2 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's
3 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief
4 as it deems just and proper under the circumstances.

5 Dated: January 4, 2008

Respectfully submitted,

6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8 /s/
9 ILA C. DEISS
10 Assistant United States Attorney
11 Attorneys for Defendants
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CERTIFICATE OF SERVICE

Li, Bin v. Chertoff, et al., No. 07-5564 HRL

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she caused a copy of:

ANSWER

to be served this date on the party(ies) in this action, by placing the true copy thereof, addressed as follows:

Bin Li
41686 Joyce Avenue
Fremont, CA 94539

☒ First Class Mail by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with the office's practice.

☐ Facsimile (FAX) Telephone No.

☐ Personal Service (Messenger)

☐ Federal Express

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 4, 2008

/s/
TIFFANI CHIU
Paralegal Specialist